

REMARKS/ARGUMENTS

Claims 1-16 are pending in the present application and are currently under examination. With entry of this Amendment, the first paragraph of the specification has been amended to update the information directed to related cases. In particular, this paragraph has been amended to set forth that U.S. Patent Application No. 09/950,459 has issued as U.S. Patent No. 6,649,349, and that U.S. Patent Application No. 09/179,162 has issued as U.S. Patent No. 6,485,901. In addition, the title of the invention has been amended to more closely track the subject matter currently claimed. Specifically, the title of the invention has been amended to recite "Detection of Nucleic Acid Using Linear Beacons." These amendments relate to formal matters and, thus, no new matter has been introduced. Reconsideration is respectfully requested.

In the Office Action, the specification has been objected to for the following informality: "the continuation information must be updated to indicate issue of the parent applications as U.S. patents" (*see*, page 2 of the Office Action). In addition, the title has been objected to as being non-descriptive. Finally, claims 1-16 have been rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 3-5 and 46-72 of U.S. Patent No. 6,485,901. For the reasons set forth below, each of these objections/rejections is overcome.

Applicants acknowledge, with appreciation, the Examiner's indication that claims 1-16 are free of the prior art, and that they are allowable if the outstanding objections/rejections are overcome. (*see*, page 3 of the Office Action).

Objection to the Specification

In the Office Action, the specification has been objected to for the following informality: "the continuation information must be updated to indicate issue of the parent applications as U.S. patents" (*see*, page 2 of the Office Action).

In order to expedite prosecution, the first paragraph of the specification has been amended to update the information directed to related cases. In particular, this paragraph has been amended to set forth that U.S. Patent Application No. 09/950,459 has issued as U.S. Patent No. 6,649,349, and that U.S. Patent Application No. 09/179,162 has issued as U.S. Patent No.

6,485,901. In view of the amendment to the specification, the Examiner's concern is overcome. Accordingly, Applicants urge the Examiner to withdraw this objection to the specification.

Objection to the Title

In the Office Action, the title of the invention has been objected to as non-descriptive. In support of this objection, the Office Action states that "[a] new title is required that is clearly indicative of the invention to which the claims are directed" (*see*, page 2 of the Office Action).

In order to expedite prosecution, the title of the invention has been amended to more closely track the subject matter currently claimed. Specifically, the title of the invention has been amended to recite "Detection of Nucleic Acid Using Linear Beacons." In view of the amendment to the title of the invention, the Examiner's concern is overcome. Accordingly, Applicants urge the Examiner to withdraw this objection.

Obviousness-Type Double Patenting Rejection

Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 3-5 and 46-72 of U.S. Patent No. 6,485,901. Without acquiescing to this obviousness-type double patenting rejection, and in the interest of furthering prosecution, Applicants submit with this response a Terminal Disclaimer for the present application in view of U.S. Patents No. 6,485,901. In view of the filing of the Terminal Disclaimer, the obviousness-type double patenting rejection is rendered moot. Accordingly, Applicants urge the Examiner to withdraw this rejection.

Appl. No. 10/610,337
Amdt. dated February 25, 2008
Reply to Office Action of September 25, 2007

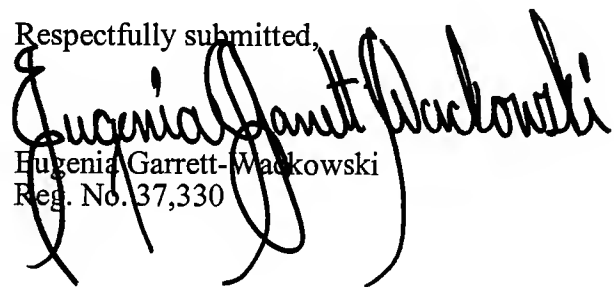
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eugenia Garrett-Wackowski". The signature is fluid and cursive, with the first name "Eugenia" being the most prominent part.

Eugenia Garrett-Wackowski
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